



268365

Affidavit Concerning Real Property Contaminated with Hazardous Substances,
May 1, 2001

AFFIDAVIT CONCERNING REAL PROPERTY
CONTAMINATED WITH HAZARDOUS SUBSTANCES

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS)

West River Business Park Partnership, L.L.P. ("Owner"), as owner of the real property described herein, being duly sworn, states the following under oath:

1. This Affidavit is made pursuant to Minn. Stat. § 115B.16, subd. 2, which requires that before any transfer of ownership of any property which the owner knows is subject to extensive contamination by release of a hazardous substance, the owner shall record with the county recorder of the county in which the property is located an affidavit containing a legal description of the property and disclosing to any potential transferees: a) that the property has been used to dispose of hazardous waste or that the property is contaminated by a release of a hazardous substance(s), b) the identity, quantity, location, condition and circumstances of the disposal or contamination to the full extent known or reasonably ascertainable; and c) that, if the property was used as a permitted hazardous waste disposal facility, the use of the property or some portion of it may be restricted as provided in Minn. Stat. § 115B.16, subd. 1.

2. West River Business Park Partnership, L.L.P. is the owner of West River Business Park Addition ("Property") located at the intersection of 10th Avenue North and 3rd Street West in the City of Waite Park ("City"), County of Stearns, State of Minnesota, which includes those certain parcels legally described as follows:

Lot Six (6), Block One (1), West River Business Park Addition ("Lot 6")

Lot Seven (7), Block One (1), West River Business Park Addition ("Lot 7")

3. The Property is a 22 acre site which had previously been used by Burlington Northern Santa Fe Railroad ("BN") as a repair facility for its railroad cars and engines. As a result of this use, and the deposit of waste material byproducts of this use on the site, the site became contaminated and cleanup was ordered by the Environmental Protection Agency and the Minnesota Pollution Control Agency ("MPCA"). The City acquired the site from BN as part of the cleanup process in

which BN agreed to remain responsible for any future cleanup required as the Property developed. The Owner acquired the Property from the City in May of 1996 subject to it being developed in accordance with the terms of a Development Agreement between the Owner and the City dated May, 1996.

4. Prior to acquisition of the Property by the Owner, the MPCA and BN worked to clean up the entire BN site. Upon acquisition of the Property by the Owner, the Owner began working with the MPCA, through its Voluntary Investigation and Cleanup program to develop the site. A development plan and site safety plan was filed with the MPCA setting out the development to occur and the procedures to be followed if contaminants were discovered. The Owner has proceeded in accordance with these plans.

5. Development of Lot 6 and Lot 7 started in the fall of 1997 with a warehouse/office facility proposed for each lot. A geo-technical soil evaluation was conducted in the first quarter of 1997, utilizing procedures that conformed with the site safety plan. Following this evaluation and during subsequent construction activities, contaminants were found and construction activities were stopped while additional subsurface investigation was conducted to determine the extent and magnitude of impacted soil. In accordance with a draft master response action plan dated October 20, 1998, which plan was approved for implementation on Lot 6 and Lot 7 by the MPCA, excavation of the contaminated soil on Lot 6 and Lot 7 was commenced. Excavation of contaminated soil to a depth of four feet below final landscape grade, four feet-nine inches below final grade of pavement rated for heavy duty traffic areas and two feet-nine inches below final grade of pavement rated for light duty traffic areas was commenced on November 12, 1998 and completed on April 9, 1999. Construction of the warehouse/office facilities on the Lot 6 and Lot 7 were completed in the second quarter of 2000.

6. No contamination remains on Lot 6 and Lot 7 except for impacted soil in two locations along the westerly boundary of Lot 6 which could not be excavated due to the presence of a utility line. The location of the impacted soils are detailed in the West River Business Park, Waite Park, Minnesota, Lots 6 and 7, Block 1, As-Built Report submitted to the MPCA on June 15, 2000 by Braun Intertec Corporation on behalf of the Owner and shown on Exhibit A attached hereto.

7. No ongoing operation and maintenance structures or equipment, such as monitoring wells, are located on Lot 6 and Lot 7.

8. Any person who is planning any use or activity which may adversely affect the protectiveness of the response action or which has the potential to disturb the Property should contact the Minnesota Pollution Control Agency prior to commencement of the planned activities.

9. The response actions at the property were approved by the MPCA based on the assumption that the Property was to be used for commercial or industrial activities. If the use is changed, the change could associate the property owner with the release or threatened release of hazardous substances, pollutants or contaminants and could result in a requirement for performance of further response actions at the property.

West River Business Park Partnership, L.L.P.

By [Signature]
Its Managing Partner

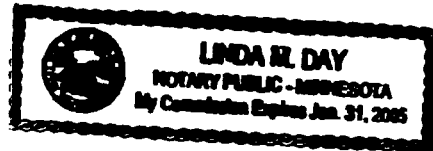
STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS)

On this 15th day of May, 2001, before me a notary public within and for said County and State, personally appeared Ronald Morton to me personally known, who, being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed the same as free act and deed for the uses and purposes therein set forth.

[Signature]
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

HALL & BYERS, P.A.
Stanley J. Weinberger, Jr.
1010 West St. Germain
Suite 600
St. Cloud, MN 56301
(320) 252-4414



**Affidavit Concerning Real Property Contaminated with Hazardous Substances,
October 16, 2001**

STATE OF MINNESOTA)
) ss.
COUNTY OF STEARNS)

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3. The Property is a 22 acre site which had previously been used by Burlington Northern Santa Fe Railroad ("BN") as a repair facility for its railroad cars and engines. As a result of this use, and the deposit of waste material byproducts of this use on the site, the site became contaminated and cleanup was ordered by the Environmental Protection Agency and the Minnesota Pollution Control Agency ("MPCA"). The City acquired the site from BN as part of the cleanup process in which BN agreed to remain responsible for any future cleanup required as the Property developed. The Owner acquired the Property from the City in May of 1996 subject to it being developed in accordance with the terms of a Development Agreement between the Owner and the City dated May, 1996.

4. Prior to acquisition of the Property by the Owner, the MPCA and BN worked to cleanup the entire BN site. Upon acquisition of the Property by the Owner, the Owner began working with the MPCA, through its Voluntary Investigation and Cleanup program to develop the site. A development plan and site safety plan was filed with the MPCA setting out the development to occur and the procedures to be followed if contaminants were discovered. The Owner has proceeded in accordance with these plans.

5. The lots which comprise Parcel #1 are currently undeveloped but have been the subject of remediation operations by BN and the Owners, in cooperation with the Minnesota Department of Trade and Economic Development, working pursuant to a remediation plan prepared by Wenck Associates, Inc. Contaminants were found within the site which encompassed approximately sixty percent (60%) of Parcel #1. The Owner and BN excavated the site, removing all contaminated soils and replaced them with noncontaminated soil. This was completed in the fourth quarter of 2001.

6. No contamination remains on Parcel #1.

7. The response action involved the removal of all contaminated soils from the site and no ongoing operation and maintenance structures or equipment, such as monitoring wells, are located on Parcel #1.

8. Any person who is planning any use or activity which may adversely affect the protectiveness of the response action or which has the potential to disturb the Property should contact the Minnesota Pollution Control Agency prior to commencement of the planned activities.

9. The response actions at the Property were approved by the MPCA based on the assumption that the Property was to be used for commercial or industrial activities. If the use is changed, the change could associate the Property owner with the release or threatened release of hazardous substances, pollutants or contaminants and could result in a requirement for performance of further response actions at the Property.

West River Business Park Partnership, L.L.P.

By [Signature]
Its [Signature]

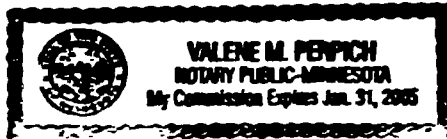
Westland Properties, LLP

By [Signature]
Its [Signature]

STATE OF MINNESOTA

COUNTY OF STEARNS

On this 16 day of October, 2001, before me a notary public within and for said County and State, personally appeared Ronald J. Macton to me personally known, who, being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed the same as free act and deed for the uses and purposes therein set forth.

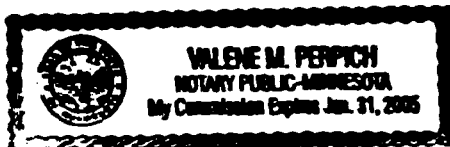


Valene M. Perpich
Notary Public

STATE OF MINNESOTA

COUNTY OF STEARNS

On this 16 day of October, 2001, before me a notary public within and for said County and State, personally appeared Ronald J. Macton to me personally known, who, being duly sworn by me on oath, did say that he is the person who signed the foregoing instrument and acknowledged that he signed the same as free act and deed for the uses and purposes therein set forth.



Valene M. Perpich
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

HALL & BYERS, P.A.
Stanley J. Weinberger, Jr.
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